

CYPRUS

Combating of Trafficking in Persons and Sexual Exploitation of Children Law of 2000 Law No. 3(1) of 2000 Providing for the special protection of persons being victims of sexual exploitation and for related matters

The House of Representatives enacts as follows:

1. Short title

This Law may be cited as the Combating of Trafficking in Persons and Sexual Exploitation of Children Law of 2000.

2. Interpretation

In this Law unless the context otherwise requires:

"child" means a person who has not completed the eighteenth year of his age;

"Minister" means the Minister of Interior including any officer of his Ministry, authorised by the Minister for purposes of this Law;

"prescribed treaties" means the Treaty for Prevention and Eradication of White Slave-traffic and Prostitution of Others (Ratification) Law of 1983;

"pornography" means the visual or sound or audio-visual recording or depiction of any type or nature of sexual act on any person or with his participation, and the term "pornographic material" is accordingly interpreted;

"sexual exploitation of an adult" means the exploitation of an adult for prostitution; "sexual exploitation of a child" means:

- (a) the incitement or compelling of a child to participate in any sexual activity;
- (b) the exploitation of a child for his prostitution or participation in other sexual practices;
- (c) the exploitation of a child with his participation in pornographic shows and material, including the production, sale and distribution of other kinds of trading in similar material, as well the possession of such material;

"trafficking" means any act that facilitates the entry into, transit through, residence in, or exit from the Republic for purposes of sexual exploitation;

"victim" means any person who is the subject of exploitation or any act prohibited by this Law or other Law or prescribed treaty punishable under this Law;

3. Sexual exploitation of persons

(1) The following are prohibited:

(a) The sexual exploitation of adult persons for profit if:

- i. it is done by the use of force, violence or threats; or
- ii. there is fraud; or
- iii. it is done through abuse of power or other kind of pressure to such an extent so that the particular person would have no substantial and reasonable choice but to succumb to pressure or ill-treatment;

(b) the trafficking of adult persons for profit and for sexual exploitation purposes in the circumstances referred to in subsection (a) above;

(c) the sexual exploitation or the ill-treatment of adults;

(d) the trafficking of children for the purpose of their sexual exploitation or ill-treatment;

(2) For the purposes of this section, blood relationship or relationship by affinity up to the third degree with the victim and any other relation of the victim with the person, who by reason of his position exercises influence and authority over the victim and includes relations with guardian, educators, hostel administration, rehabilitation home, prisons or other similar institutions and other persons holding similar position or capacity that constitutes abuse of power or other kind of coercion

- a. a person acting contrary to the provisions of section I(a) and (b) commits an offence and upon conviction is liable to imprisonment for fifteen years;
- b. a person acting contrary to the provisions of section (I)(c) and (d) commits an offence and upon conviction is liable to imprisonment for twenty years.

4. Marketing of pornographic material

1. A person using children for purposes of trafficking, who produces, obtains, possesses, carries or in any way imports or exports or places into circulation documents, publications, books, drawings, pictures, paintings, symbols, photographs, movie-tapes or other indecent articles of whatsoever kind or uses any means of publicity in order to facilitate the circulation or the marketing of indecent articles, commits an offence and upon conviction is liable to imprisonment for ten years.
2. For the purposes of this section indecent articles are considered to include manuscripts, publications, pictures and other articles, which are considered to offend the morality of the public;

Provided that indecent articles are not considered as works of art or science and particularly those belonging to the cultural creation of humanity or contributing to the promotion of human knowledge.

5. Trafficking of persons for purposes of sexual exploitation

1. A person trafficking any other person or persons, with or without their initial consent or knowledge for purposes of their eventual sexual exploitation contrary to sections 3 or 4 of this Law or any other law or any prescribed treaty prohibiting similar exploitation or who knowingly instigates, assists, suffers or allows, participates, or contributes to such trafficking of person, commits an offence and upon conviction is liable subject to the provisions of the subsection (2) to a fine of ten thousand pounds or imprisonment for ten years, or both.
2. When the commission of an offence under subsection (1) has as a victim a child, the provision for the above offence sentence is increased to imprisonment for fifteen years or to a fine of fifteen thousand pounds or both.
3. In criminal proceedings for any offence under this section, the intent for sexual exploitation by the offender is presumed in cases where the necessary entry or exit permit from the Republic of the traveller has been forged or has been secured by the competent authorities with fraud, deceit, forgery of documents or misrepresentations or declarations regarding any information which is needed for the issue of entry permit.

It is provided that the aforementioned presumption may be rebutted if the offender shall satisfy the court that the above illegal acts had other than the presumed intent.

6. Exclusion of some defences

Unless it is otherwise expressly provided in this Law where an offence is committed under this Law the following do not constitute a defence for the accused:

- a. that he did not know or did not believe that the victim of the offence was younger than the specified age
- b. that the victim consented to the illegal action which constituted the offence or that he takes any financial or other reward for the act; or
- c. that the act has taken place in whole or in part in a country where the said act did not constitute an offence.

7. State providence

1. The victims of exploitation contrary to this Law or any other Law or any prescribed treaty during their stay in the territory of the Republic are entitled as against the Republic and the Republic has the duty to provide them with any reasonable protection and support including, to the extent that this is feasible and reasonable, arrangements for maintenance, temporary shelter, medical care and psychiatric support until the victims are considered as having recovered from any traumatic experience.
2. A person convicted for an offence relating to the exploitation of another person, the trial court may order in addition to any other sentence or measure, that the accused pays all or part of the expenses which the Republic has incurred, incurs or can reasonably anticipate to incurring during the discharge of the above duty.

8. Suing for damages/course of action for compensation

1. Notwithstanding and without prejudice to any other legal right which is provided under any legal or other provision, the victims of exploitation according to the meaning of this Law have an additional right for damages against any person who is responsible for their exploitation, and is liable for damages, special and general.
2. The above-mentioned general damages must be just and reasonable and in their assessment the Court may take into consideration the following:
 - a. the extent of the exploitation and the benefit the liable derived from such exploitation,
 - b. the future prospects of the victim and the extent to which such prospects were affected by the exploitation,
 - c. the culpability of the offender,
 - d. the relationship or the dominating position or influence of the offender with regard to the victim.
1. The Court may award punitive damages when the degree of the exploitation or the degree of relationship or the dominating position of the offender with regard to the victim so require.
2. The Court, in the award of special damages, takes into consideration every item of expense which resulted from exploitation including costs for repatriation in the case of foreigners.

9. Employment of foreigner victims

1. Any foreigner who legally enters the Republic and forced to give up his employment on account of illegal exploitation within the meaning of this Law or cruel treatment by the person who applied for his employment in Cyprus, may apply to the Minister for a permit to be employed by a different employer.
2. In such cases, the Minister may allow his re-employment under such terms and conditions as the Minister may require including inter alia that the new employment:
 - a. be for the same profession for which his original employment was applied for;
 - b. be of the un-expired period for which the permit was granted;
 - c. be subject to immediate revocation whenever the Minister considers appropriate to do so.

10. Appointment of guardian

1. The Council of Ministers may, if this is recommended by the Minister, appoint a guardian of victims.
2. The Council of Ministers may decide the remuneration that may be paid to the guardian as well as the period of his appointment.
3. Until a guardian is appointed under subsection (1) above, the Council of Ministers may with the consent of the Minister concerned appoint by secondment an officer from his Ministry for the purpose of exercising the powers and functions of the guardian.

11. Functions of guardian

The guardian has the following functions:

- a. to advise, counsel and give guidance to victims of exploitation,
- b. to hear in the first instance complaints of exploitation or violation of the law and to take all steps for the full investigation of the said complaints by the appropriate bodies,
- c. to care through the appropriate authorities for the treatment and safe residence of the victims,
- d. to take steps through the appropriate agencies for the prosecution of persons responsible for exploitation or other contravention of the law,
- e. to take all measures aiming at the rehabilitation or re-employment or repatriation of the victims,
- f. to identify any weaknesses or deficiency of the Law or regulations and recommend to the Minister their amendment;

12. Offences under this Law predicate offences for purposes of confiscation of illicit process. 61(1) of 1996,25(1) of 1997,41(1) of 1998.

Offences committed contrary to the provisions of this Law shall be considered as predicate offences under the Prevention and Suppression of Money Laundering Activities Law and as having been included in the said Law.

13. Extractable offences. 97 of 1970

The offences committed under sections 3,4 and 5 shall be deemed as having been included in the Schedule to the Extradition of Fugitives Law of 1970.

14. Regulations

The Council of Ministers may make regulations for the implementation of the Law which are laid before the House of Representatives for approval.

15. Extension of jurisdiction of Cyprus Court. Cap 154, 3 of 1962, 43 of 1963, 41 of 1964, 69 of 1964, 70 of 1965, 5 of 1967, 58 of 1967, 44 of 1972, 92 of 1972, 29 of 1973, 59 of 1974, 3 of 1975, 13 of 1979, 10 of 1981, 46 of 1982, 86 of 1983, 186 of 1986, 111 of 1989, 236 of 1991, 6(/) of 1994, 3(/) of 1996, 99(/) of 1996, 36(/) of 1997, 40(/) of 1998, 45(/) of 1998, 15(/) of 1999, 37(/) of 1999, 38(/) of 1999.

Notwithstanding the provisions of section 5 paragraph 1 of the Criminal Code, offences committed by any person in any country outside of the Republic, which if they were committed in the Republic should be considered offences under section 3, 4, 5 of this Law, shall be triable by an appropriate Court of the Republic exercising criminal jurisdiction.